



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No: 5031-21  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USMC,  
XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. §1552  
(b) USD memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," of 25 August 2017  
(c) USD memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

Encl: (1) DD Form 149 w/attachments  
(2) Case summary  
(3) Advisory opinion of 15 October 2021 (with Petitioner's and preparer's responses)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by upgrading his discharge characterization and by changing his narrative reason for separation.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 6 December 2021 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, and references (b) and (c), the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board considered the enclosure (3) 15 October 2021 advisory opinion (AO) furnished by a qualified mental health provider, which also includes additional materials provided by the Petitioner in response to the AO, and the preparer of the AO's response to the Petitioner's input.

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3. The Board, having reviewed all the facts of record pertaining to the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Petitioner enlisted in the Marine Corps and commenced a period of active duty on 25 August 1977. On 13 November 1978, the Petitioner received nonjudicial punishment for possession of marijuana. On 26 June 1979, he received nonjudicial punishment for failing to go to his appointed place of duty on four occasions. The Petitioner was in an unauthorized absence status from 11 to 12 July 1979, from 12 July 1979 to 11 August 1979, and again from 11 August 1979 to 16 January 1979. As a result of these periods of unauthorized absence, as well as for failing to go to his appointed place of duty, the Petitioner was convicted by a special court-martial on 5 March 1980. On 29 September 1980, the Petitioner received nonjudicial punishment for possession of marijuana. On 5 October 1980 the Petitioner commenced another period of unauthorized absence, which was terminated by this apprehension on 25 April 1983. Based on the pending charges related to this period of unauthorized absence, on 18 May 1983, the Petitioner submitted a request for separation under other than honorable conditions to avoid trial by court-martial. On 26 May 1983, the discharge authority granted the Petitioner's request for discharge, and on 3 Jun 1983, he was discharged with an other than honorable characterization of service.

c. The Petitioner contends that he experienced mental health symptoms during his military service, which contributed to, and mitigates, his misconduct. He submitted a 2021 statement from a Veteran Services Officer representative (VSO) that states the Petitioner had been undergoing treatment since June 1983 for schizophrenia, which is the month of the Petitioner's discharge. The Petitioner, through his representative, further contends that he suffered a delusional episode that occurred in 1982 or 1983 that culminated in an aborted attempt at castration. He included a letter from a community mental health program reporting that he received services from June 1983 until November 2019. The Petitioner's VSO representative also stated that the Petitioner "has a very difficult time differentiating between reality and his delusions. It is because of these delusions that I believe [the Petitioner] went AWOL during his military service and received the under other than honorable conditions discharge."

d. In light of the Petitioner's assertion of a mental health condition, the Board requested the AO, which is attached at enclosure (3). The AO reviewed all of the materials the Petitioner submitted, and explained:

Petitioner's service record did not contain a diagnosis of a mental health condition other than substance abuse. However, the Petitioner has submitted extensive post-service records demonstrating a history of severe mental health difficulties, the first record of which occurred in the same month as his separation. It is not unreasonable to consider that he may have experienced mental health difficulties during his military service, which could have impaired his functioning. It is more difficult to consider that all of his misconduct should be attributed to a mental health condition, such as schizophrenia, that he suffered during military service.

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The Petitioner acknowledged an arrest for underage possession of alcohol prior to entering military service. The Petitioner's drug and alcohol use is a confounding factor in determining a nexus for his misconduct. Additional information specifically addressing his mental health symptoms and their impact on his misconduct are required to render an alternate opinion. Should the Petitioner choose to submit additional records, they will be reviewed in the context of his claims.

The AO concluded, "it is my considered medical opinion that there is evidence that the Petitioner may have been suffering from a mental health condition during his military service. However, there is insufficient evidence to attribute all of his misconduct to his mental health condition."

e. The Petitioner provided a response to the AO, which included a statement from his VSO representative, in which she addressed the Petitioner's drug and alcohol use. She explained that the Petitioner "has been mentally ill for many years which started during service and he may have used substances to cope with his delusions without realizing it." The preparer of the original AO reviewed the Petitioner's response, and concluded it did not change her opinion, explaining that, "given his pre-service alcohol possession arrest, it seems as likely as not that his drug use was related to a continuation of pre-service behavior."

## CONCLUSION

Upon review and consideration of all the evidence of record, and in view of references (b) and (c), as well as the AO and associated responses, at enclosure (3), the Board determined that the Petitioner is entitled to partial relief in the form of upgrading his discharge characterization to general (under honorable conditions), but not changing his narrative reason for separation. In reaching its decision, the Board concurred with the AO's finding that some, but not all, of the Petitioner's misconduct while on active duty could be mitigated by his mental health condition. In reaching its conclusion, the Board's decision was informed in part by the AO's finding that, it seemed "likely as not that his drug use was related to a continuation of pre-service behavior." The Board observed that, while any decision on such is outside its purview, it is hopeful that with a general (under honorable conditions) characterization of service, the Petitioner will be eligible for additional mental health treatment via the Department of Veterans' Affairs.

Accordingly, after balancing the Petitioner's contentions and the finding of the AO, with the several charges of misconduct for which he was discharged, the Board determined that an upgrade to a general (under honorable conditions) characterization was appropriate.

## RECOMMENDATION

In view of the above, the Board directs the following corrective action: Petitioner be issued a new DD Form 214 reflecting that his characterization of service at the time of his discharge was general (under honorable conditions).

That no further changes be made to Petitioner's record.

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A copy of this report of proceedings shall be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

12/20/2021

[REDACTED]

[REDACTED]